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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,835	10/23/2003	Martine Fennelly	FLEECE.001A	9218

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EXAMINER

NGUYEN, SON T

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 04/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,835

Applicant(s)

FENNELLY, MARTINE

Examiner

Son T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 19-32, 43, 53-58 and 60-65 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 19-32, 43, 53-58 and 60-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/11/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. In reply to a restriction requirement mailed on 12/13/04, Applicant has elected without traverse the invention of Group I, claims 1-11,19-32,43,53-58,60-65. The non-elected claims have been canceled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1-2,4-7,9-11,19-20,22-25,27-29,31-32,43,53-58,60-64** are rejected under 35 U.S.C. 102(b) as being anticipated by Vasko et al.(US 4683709).

For claim 1, Vasko et al. teach a saddle pad apparatus 12 adapted to support a saddle while maintaining substantially unimpeded movement of the spinal column of a living subject.

For claim 2, Vasko et al. teach wherein said apparatus comprises a plurality of pads 36,38 disposed laterally to said spine.

For claim 4, Vasko et al. teach wherein at least one of said pads varies in thickness (see fig. 8).

For claim 5, Vasko et al. teach wherein at least a portion of said plurality of pads are formed from a visco-elastic foam material (col. 2, lines 65-68 and col. 3, lines 32-48).

For claim 6, Vasko et al. teach wherein said plurality of pads are disposed in pockets 28,30 formed substantially between a first layer 14 and a second layer 17 of material.

For claim 7, Vasko et al. teach wherein said plurality of pads are made removable from said pockets via Velcro strips 34,35 disposed at seams of said pockets.

For claim 9, Vasko et al. teach wherein said living subject comprises an equine.

For claim 10, Vasko et al. teach wherein said apparatus is further adapted to mitigate rocking of said saddle back and forth on said living subject during riding.

For claim 11, Vasko et al. teach wherein said apparatus is further adapted to mitigate rocking of said saddle back and forth on said living subject during riding based at least in part on said variation in thickness.

For claim 19, Vasko et al. teach saddle pad apparatus 12 adapted to support a saddle on a living subject during riding such that said saddle is substantially stable around a rotational axis transverse to the longitudinal axis of the spinal column of said subject.

For claim 20, Vasko et al. teach wherein said apparatus comprises a plurality of pads 36,38 disposed laterally to said spine.

For claim 22, Vasko et al. teach wherein at least one of said pads varies in thickness (fig. 8).

For claim 23, Vasko et al. teach wherein at least a portion of said plurality of pads are formed from a visco-elastic foam material (col. 2, lines 65-68 and col. 3, lines 32-48).

For claim 24, Vasko et al. teach wherein said plurality of pads are disposed in pockets 28,30 formed substantially between a first layer 14 and a second layer 17 of material.

For claim 25, Vasko et al. teach wherein said plurality of pads are made removable from said pockets via Velcro strips 34,35 disposed at seams of said pockets.

For claim 27, Vasko et al. teach wherein said living subject comprises an equine.

For claim 28, Vasko et al. teach wherein said apparatus is further adapted to support said saddle while maintaining substantially unimpeded movement of the spinal column of said living subject.

For claim 29, Vasko et al. teach a saddle pad adapted for use with a saddle on an equine, comprising: first and second substantially flexible elements 14,17 having roughly the same shape, said first and second elements being bond together in at least a plurality of locations along their periphery said first element being in direct contact with the skin of said equine; and a plurality of compressible foam pad elements 36,38 disposed between said first and second flexibly elements, said pad elements being disposed within said saddle pad such that the movement of the spine of said equine is substantially unimpeded by said saddle and said pad elements during riding, wherein substantial weight redistribution of said saddle in a front-back direction is frustrated by said pad elements; and wherein said unimpeded spine movement, said frustration of redistribution, and said first flexible element cooperate to provide reduced discomfort for said equine during said riding.

For claim 31, Vasko et al. teach at least one peripheral ridge 19,26,22 disposed substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding.

For claim 32, Vasko et al. teach a saddle pad adapted for use, with a saddle, on an equine, comprising: first and second substantially flexible elements 14,17 having roughly the same shape, said first and second elements being bound together in at least a plurality of locations along their periphery, said first element being in direct contact with the skin of said equine; a plurality of compressible foam pad elements 36,38 disposed between said first and second flexibly elements, said pad elements being disposed within said saddle pad such that the movement of the spine of said equine is substantially unimpeded by said saddle and said pad elements during riding, first and second restraining straps 40,41 affixed to at least said second flexible element, said straps each being adapted for substantially concealed tethering to said saddle; and at least one peripheral ridge 19,26,22 disposed substantially along a front or back periphery of said first and second elements, said peripheral ridge cooperating with an edge of said saddle to substantially frustrate relative motion between said saddle pad and said saddle in at least one direction during riding.

For claim 43, Vasko et al. teach tilt-inhibiting saddle pad apparatus, comprising: a body element 14,17 having a plurality of pockets 28,30 formed therein; a plurality of pad elements 36,38 disposed within respective ones of said pockets; and a contour element

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19,22,26 (and the seams to create a boundary to hold in the pads) ndisposed within a respective one of said pockets, said contour element having physical properties adapted to cooperate with said pad elements and the anatomy of an animal on which said pad apparatus and a saddle are disposed to maintain said saddle in a substantially constant orientation with respect to said animal.

For claim 53, Vasko et al. teach a pad element 36,38 adapted for use in a saddle pad, wherein said pad element is formed from a substantially resilient material (col. 2, lines 65-68 and col. 3, lines 32-48) and is adapted for selective removal from said saddle pad by a user.

For claim 54, Vasko et al. teach wherein said resilient material comprises a visco-elastic foam (col. 2, lines 65-68 and col. 3, lines 32-48).

For claim 55, Vasko et al. teach wherein said pad element has a plurality of densities associated therewith in its uncompressed state.

For claim 56, Vasko et al. teach wherein said plurality of densities are substantially stratified (fig. 8) with respect to the width dimension of said element.

For claim 57, Vasko et al. teach wherein said pad element further comprises a plurality of substantially rounded edges (self explanatory from figures).

For claim 58, Vasko et al. teach wherein said pad element is shaped substantially to accommodate a particular artifact on the anatomy of an animal on which said pad element and saddle pad is utilized.

For claim 60, Vasko et al. teach an apparatus adapted for use on high-withered animals, comprising: a substantially flexible pad 14,17 having a plurality of features

28,30 adapted to capture respective ones of pad elements; a plurality of pad elements 36,38 captured by respective ones of said features; wherein said pad elements and said pad cooperate to raise a frontal portion of a saddle disposed over top of said pad element with respect to a withers region.

For claim 61, Vasko et al. teach wherein said pad elements are formed from visco-elastic foam (col. 2, lines 65-68 and col. 3, lines 32-48).

For claim 62, Vasko et al. teach a pad interface 12 adapted to interface between said pad and said animal, said pad interface adapted to (i) dissipate localized pressure; (ii) dissipate heat; and (iii) dissipate moisture.

For claim 63, Vasko et al. teach a coordinated riding system for use on an animal, comprising: a pad retaining structure 12; a plurality of pad elements 36,38 retained by said structure and adapted to provide a substantially uniform distribution of pressure; and an interface element 17 disposed between said animal and said pad elements, said interface element being adapted to provide substantial pressure dissipation, moisture dissipation, and thermal dissipation.

For claim 64, Vasko et al. teach wherein said retaining structure comprises a saddle pad, and said pad elements comprise visco-elastic foam pads 36,38 disposed at or near the withers region of said animal.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 3,21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasko et al. (as above).

Vasko et al. are silent about wherein said plurality comprises four discrete pads, two per side of the spine. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ four pads in the saddle pad of Vasko et al., depending on the area of the horse one wishes to cushion.

6. **Claims 8,26,30,65** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vasko et al. (as above) in view of Woods (US 5802823).


Vasko et al. teach a fiber-based material 14 being disposed to contact said saddle. However, Vasko et al. are silent about material 17 being sheepskin disposed to contact the skin of said living subject. Woods teaches a saddle pad having a material 62 being sheepskin disposed to contact the skin of said living subject. It would have been obvious to one having ordinary skill in the art at the time the invention was made to manufacture the material 17 of Vasko et al. out of sheepskin as taught by Woods, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use (for comfort of the horse) as a matter of obvious choice.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son T. Nguyen whose telephone number is 571-272-6889. The examiner can normally be reached on Mon-Thu from 10:00am to 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Son T. Nguyen
Primary Examiner
Art Unit 3643

stn